

REMARKS

Reconsideration and allowance in view of the foregoing amendments and following remarks are respectfully requested.

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Claims 1-20 are pending in the application.

The Examiner indicated that the title of the invention was not descriptive. Therefore, Applicants have replaced the title with a more descriptive title.

The Examiner objected to the drawings because Figure 11 did not have a label such as "Prior Art." Therefore, Applicants have submitted a replacement sheet for Figure 11.

The Examiner rejected claims 1-20 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have amended claims 6 and 7 to clarify the intended meaning. In particular, note that an objective of the previously recited at least one objective is recited and the phrase "capable of" has been replaced. Due to the current recitation of "an objective" there is now no contradiction between successive dependent claims since one or more objectives are permitted within the scope of claim 5. Therefore, Applicants respectfully submit that claims 1-20 are now clear in accordance with 35 U.S.C. § 112, second paragraph. Applicant thus requests that the rejection of claims 1-20 under 35 U.S.C. § 112, second paragraph, be withdrawn.

The Examiner rejected claims 1, 2, and 5 under 35 U.S.C. § 102(b) as being anticipated by Swanson et al. (U.S. Patent No. 5,321,501). Applicant respectfully submits that the amendments to claim 1 obviate the rejection of claims 1 and 2 and respectfully traverse with respect to the rejection of claim 5. Applicant amended claim 1 to clarify a structural relationship of the objective and the beam diameter changing optical system. In particular, note that both are positioned in the signal light path. The Swanson et al. reference neither teaches nor suggests an optical system that has such a structure. Even if one were to consider the fiber 30 and the lens 36 to be a beam diameter changing optical system for the sake of argument, it is not a beam diameter changing optical system as recited in claim 1 and as is clarified by the structural relationship of the objective beam diameter changing optical system and branching member in the light path. In Swanson et al. the sample is located at element 28. Therefore, Applicant respectfully submits that claims 1 and 2 are now in condition for allowance and requests that the rejection under 35 U.S.C. § 102(b) be withdrawn.

In regard to claim 5, note that it recites a scanning control mechanism that has "a function of choosing between said first scanner mechanism and said optical path length control mechanism, and a function of determining a scanning speed of the chosen mechanism and

scanning speed of said second scanning mechanism.” There is no teaching or suggestion in Swanson et al. for such a scanning mechanism. Therefore, Applicant respectfully submits that claim 5 is in condition for allowance and requests that the rejection under 35 U.S.C. § 102(b) be withdrawn.

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The Examiner rejected claims 3 and 4 under 35 U.S.C. § 103(a) as being unpatentable over Swanson et al. Applicant respectfully submits that the amendments to claim 3 obviate this rejection for at least the following reasons.

Applicant amended claim 3 to clarify the structure of the correcting mechanism. It is not “to maximize the scan area” as suggested by the Examiner. Therefore, Applicants respectfully submit that claims 3 and 4 are now in condition for allowance and request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

The Examiner rejected claims 6-15, 17 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Swanson et al., and further in view of Izatt et al. (Optics Letters). Claims 6-15 and 17 each depends either directly or indirectly from claim 5. The Izatt et al. reference does not make up for the deficiencies noted above in regard to claim 5. Claim 19 depends from base claim 3 through intermediate claim 4. Applicants thus respectfully submit that the amendment to clarify the correcting mechanism in claim 3 obviates the rejection of claim 19 since Izatt et al. does not make up for the above noted deficiency with respect to claim 3.

The Examiner rejected claims 16, 18, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Swanson et al. and Izatt et al., and further in view of Tearney et al. (U.S. Patent No. 6, 111, 645). Claim 16 depends indirectly from base claim 5, claim 18 depends indirectly from base claim 1 and claim 20 also depends indirectly from base claim 1. Applicant respectfully submits that the above-noted amendments to claim 1 obviate the rejection of claims 18 and 20 for at least the reasons presented above with respect to claim 1. The secondary references to Izatt et al. and Tearney et al. do not make up for the deficiencies noted above with respect to claim 1. Similarly, Applicants respectfully submit that claim 16 is patentable over Swanson et al., Izatt et al., and Tearney et al. for at least the reasons presented above in regard to claim 5. Therefore, Applicants respectfully submit that claims 16, 18, and 20 are in condition for allowance and request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

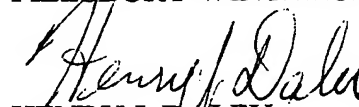
Applicants have addressed all of the Examiner’s objections and rejections and respectfully submit that the application is now in condition for allowance.

The Examiner is encouraged to call the Applicant's representative at the below noted telephone number if it may help advance the prosecution of this case.

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Respectfully submitted,

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